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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/314,001	05/19/1999	LJUDMILA GRIGORIEVNA ASLANOVA	33611YW002	4566

7590

11/08/2002

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EXAMINER

HOFFMANN, JOHN M

ART UNIT

PAPER NUMBER

1731

DATE MAILED: 11/08/2002

29

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/314,001

Applicant(s)

ASLANOVA, LJUDMILA
GRIGORIEVNA

Examiner

John Hoffmann

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on October 23 and 09 October 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 22-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 22-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 1731

DETAILED ACTION

This is in response to the amendment submitted 24 October 2002 that crossed in the mail with paper #21. The rejection of 10-21-02 is to be disregarded.

Response to Amendment

The amendment filed 28 October 2002 is of very poor quality; it makes reading difficult. Applicant is required to re-submit the claims in the next communication to the Office - If Applicant wishes to continue prosecution of these claims.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on 9 October 2002 has been entered.

Claims 8-9, 13, 15, and 20 remain withdrawn from consideration.

Response to Amendment

It is noted that the amendment filed 9-10-02 (faxed 09/06/-2) fails to provide an accurate clean copy of the claims. For instance, claim 1 has two steps of "providing the glass mass to a stabilizing section" - and there is no clean copy of claim 27 - although there is a marked-up copy thereof. It is noted that

Art Unit: 1731

there is page "14" between "13" and "15" as indicated at the bottom of the pages.

It does not appear that the Office lost any such sheet - rather no page 14 was faxed. The fax indicates that page "13" was the 15th page transmitted and page "15" was the 16th page submitted.

This action is based on what is actually claimed (and to the extent possible) what Examiner believes was intended to be claimed. Any future amendment to claim 1 has to be based on what is presently claimed (i.e. having two steps of providing the glass).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 and 22-26 and 30-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 requires two steps of providing the glass mass; one of ordinary skill would not understand if this is merely a typo, or if two steps are actually needed.

Claims 30-31: it is not understood what is meant by the compositions being "enriched" with oxides. One of ordinary skill would not understand if that means that the oxides were added to the basalts, or if the basalts have oxide concentrations which are higher than some unspecified basalt. It is unclear

Art Unit: 1731

what is meant by a "type" of basalt rock. It is unclear what makes one type of basalt a "main" type.

The term "basalt" is indefinite to the point that of ordinary skill could not understand what the claims cover. First note page 1, lines 14-17 indicates that basalts can be 90% oxides of iron and titanium or 80 % oxides of aluminum and silicon. However, compared to the Van Nostrand's definition which states there is a preponderance of calcic plagioclase feldspars and pyroxene. Clearly the two compositions that applicant indicates as "basalt" - are contrary to the Van Nostrand definition. One of ordinary skill would be at a complete loss as to what is covered and what is not covered by "basalt".

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 27-31 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 27-29 There is no support for a "separate, second furnace chamber". As can be seen from Applicant's drawings, the chambers are not "separate".

Art Unit: 1731

Claims 30-31: there is no support for basalt being "derived" from anything.

Claim Rejections - 35 USC § 103

Claims 1-7 and 22-26 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Austin 4149866 in view of Naber 4940478 and Tsai 4816056.

Austin discloses the composition of the invention and the use of basalt: see col. 2, line 48- col.3, line17. However, Austin does not go into much detail as to how the melt is created. Although Austin does not mention the ratios, they are inherently met by at least one of the specific compositions disclosed by Austin.

Naber teaches that it is desirable to preheat basalt when making fibers: col. 1, lines 6-8 and 31-34. This is to save energy/money: col. 2, lines 19-23. It would have been obvious to practice the Austin invention by using preheat of the basalt as taught by Naber for the reasons of Naber.

Austin does not discuss how the basalt material is melted. Tsai discloses an improved method for making glass and glass-like material (col. 1, lines 15-17; col. 1, line 65 to col. 2, line 51, col. 4, line32-40, col. 5, lines 66-68, and figures 2-3). The Austin material is clearly a "glass-like" material., for example, see Applicant's own specification. ,

It would have been obvious to use the Tsai melting method/apparatus for the melting operation of Austin, for the advantages of Tsai. Tsai demonstrates that the stabilizing structure/effects that Applicant invented has been previously invented.

Art Unit: 1731

Alternatively, Tsai teaches method of making glass. Austin teaches that Basalt is "readily available" and an "inexhaustable natural resource" (col. 3, lines 18-26) that produces fibers of "substantial industrial values". It would have been obvious to use the Austin material in the Tsai invention because the raw material is inexhaustible and creates industrial value. It would have been further obvious to preheat the raw material as taught by Naber for the advantages of Naber.

Claim 3: it would have been an obvious matter of routine experimentation to determine the optimal glass temperature. Clearly, if the glass was near or below the melting temperature it would have been too fluid - water-like to draw a fiber therefrom.

Claim 5: See table 3: it would have been obvious that the feeder would be at a temperature of the claimed range.

Claims 2, 6 and 4: See col. 7, line 11 of Naber. It is clear that the basalt would be heated to at least one temperature within the claimed range for at least one portion of the process.

Claim 7: see how claim 3 is addressed.

Claims 22-24 are clearly met.

Claims 25-26: Although Tsai's figure 2 may not be drawn to scale, it reasonably suggests a ratio that is similar as to what is claimed. Furthermore, below features 15, there are various steps. One can pick and choose two steps so that one is the stabilization height and another is the firing space height - and

Art Unit: 1731

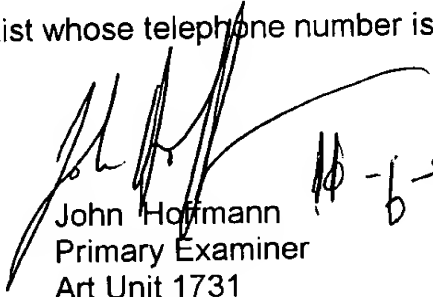
then arbitrarily designate one portion as the firing space chamber and the rest as the stabilizing chamber.

Alternatively, it would have been an obvious matter of routine experimentation to determine the height - Tsai discloses that the height in the waist is a result effective variable. Tsai further discloses that the height is relevant in the waist/stabilizing region, for the same reason Applicant does. One would expect that similar ratios would be needed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Hoffmann whose telephone number is 703-308-0469. The examiner can normally be reached on Monday through Friday, 7:00- 3:30.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7115 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.


John Hoffmann
Primary Examiner
Art Unit 1731

11-6-02

jmh
November 6, 2002